

C A N A D A

PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

N°: 500-06-000435-087

SUPERIOR COURT
(CLASS ACTION)

SHEILA CALDER

Plaintiff

-C-

ROYAL BANK OF CANADA

-and-

RBC CAPITAL MARKETS CORPORATION

Defendants

**PLAINTIFF'S MOTION
FOR MEASURES REGARDING PRE-TRIAL EXAMINATIONS
(CCP sections 20, 49, 158, 221 al. 1 et 2 (1) and 497)**

**TO THE HONORABLE JUSTICE MARC DE WEVER J.C.S., THE PLAINTIFF
STATES AS FOLLOWS:**

1. By the present Motion, Plaintiff seeks:
 - a) Orders summoning five former employees of Defendants and one current employee for pre-trial examinations to be conducted by Plaintiff;
 - b) A declaration recognizing the Defendants' obligation to collaborate with Plaintiff and facilitate the depositions of former RBC employees;
 - c) A declaration recognizing the Defendants' obligation to fulfill the undertakings to be taken during depositions of former employees;

A. Events and communications leading to the present Motion

2. On **February 12, 13 and 14, 2018**, the Court heard arguments from the parties as per a motion filed by Plaintiff regarding the communication of certain documents;
3. At the end of the hearing, the Court indicated that the next foreseeable steps in the file were the timely communication of documents by Defendant as per the

upcoming order, if any, and the timely examination of Defendant's representatives following the communication of documents;

4. On **April 11, 2018**, the Court rendered judgment ordering Defendants to respond to the allowed document Motions within 90 days (or by July 11, 2018);
5. On **August 17, 2018**, the undersigned informed counsel for RBC of Mrs. Calder's intention to conduct the pre-trial examination of four representatives of the Defendants, *inter alia* Roger Blisset, John Service, Suzanne B. Labarge and Peter W. Currie, as appears from the undersigned attorneys' letter of that date, **Exhibit M-1**;
6. On **August 29, 2018**, counsel for RBC responded that the four identified representatives were no longer employed by Defendants, and that they would reply further as to the number and identity of the sought representatives to be deposed, as appears from counsel for RBC's letter of the same date, **Exhibit M-2**;
7. On **November 20, 2018**, the undersigned confirmed in writing counsel for RBC's renewed verbal undertaking to communicate their clients' position relative to the four representatives sought to be deposed by Plaintiff;
8. On **December 4, 2018**, the undersigned provided the Court with an update on case management relative to the above-mentioned issues, as appears from a copy of letter of that date, **Exhibit M-3**;
9. On **January 8, 2019**, counsel for RBC informed the undersigned by email that they were "*still in the process of gathering information and obtaining instructions*", as appears from said email, **Exhibit M-4**;
10. On **January 17 and 21, 2019**, the undersigned informed counsel for RBC by letter of their intention to also proceed with the pre-trial deposition of Ms. Karen Haist, as appears from said letters, **Exhibit M-5 en liasse**;
11. On **February 7, 2019**, the Court held a case management conference hearing by phone regarding the topics raised in the M-3 letter;
12. At the conclusion of the February 7 case management hearing, the Court asked for the parties to communicate a timeline for the next foreseeable steps in this file by Friday March 15, 2019;
13. On Friday, **March 8, 2019**, having received no answer regarding Defendant's position on the persons sought to be deposed, the undersigned asked for a teleconference between counsels to be held the following Monday;

14. On Sunday, **March 10, 2019**, counsel for RBC communicated a draft case protocol, but did not provide indications on their clients' position as to the representatives which Plaintiff sought to depose before trial;
15. On **March 14, 2019**, counsel for RBC informed the undersigned by letter that their clients "*take no position*" on Plaintiff's request to depose Roger Blisset, John Service and Karen Haist, under reserve of, *inter alia* solicitor-client privileges regarding Roger Blisset; counsel for RBC also indicated that their clients contest Plaintiff's request to depose Suzanne B. Labarge and Peter W. Currie, as appears from said letter, **Exhibit M-6**;
16. On **March 21, 2019**, counsel for RBC proposed Mr. David Downie, currently employed by RBC as Chief Risk Officer, USA, to "*address all topics identified*" in *[the undersigned]* letter of August 17, 2018", as appears from said letter, **Exhibit M-7**;

B. The sought depositions

17. The collective issues to be decided at trial are:
 - a) *Did RBC participate in the creation of a financial product that was used to defraud the class members?*
 - b) *Did RBC allow this fraudulent structure to evolve, strive, and survive until \$159 million were lost by Class members?*
 - c) *Did RBC know or ought to have known that the class members were being defrauded or at serious risk of losing their investments within that structure?*
 - d) *Did RBC voluntarily blind itself because of the financial benefits it derived from the fraudulent structure?*
 - e) *Did RBC omit to refrain from continuing its collaboration with Norshield Financial Group?*
 - f) *Did RBC omit to inform authorities of obvious risks and irregularities they knew or should have known about within Norshield Financial Group and the Olympus investment structure?*
 - g) *Did RBC lend their credibility to Norshield Financial Group and the Olympus investment structure, first by providing hundreds of millions of dollars in financing, and then by offering a principal protected financial product to the Canadian public which was directly based on the fraudulent structure?*
 - h) *Did RBC authorize transfers of funds and/or assets from the Norshield Financial structure that caused such assets to be diverted from assets that would have benefited the Group?*

As appears from the November 1st, 2013 ruling of this Court authorizing the class action;

18. Each witness is sought to be deposed on facts that are relevant to the dispute, on evidence supporting such facts, and for documentary disclosure purposes;
19. The witnesses are deemed by Plaintiff, at this point in time, as the persons most able to testify on the alleged facts and evidence;
20. Each person sought to be deposed were, during the relevant period, employees of one or both Defendants; they are not third parties pursuant to section 221 C.C.P.;

Roger A. Blissett

21. From June 1996 to September 2006, Mr. Blisset assumed in succession the roles of Senior Counsel, Deputy Counsel, Senior Deputy Counsel and Managing Director within the Law Department of Defendant RBC Dominion Securities Corporation and its successor RBC Capital Markets Corporation (hereinafter, "Dominion US"), the whole as appears from extracts of a deposition given by Mr. Blisset in a New York Court proceeding on November 28, 2012, **Exhibit M-8**¹;
22. Mr. Blisset's responsibilities focused on the wholesale activities of Dominion US, which were directed to corporate clients and wholesale or institutional investors²;
23. Mr. Blisset's responsibilities included the handling of compliance matters of the organization³, such as internal control and ensuring that control processes were abided to in connection with the development of products intended for institutional clients⁴;
24. Mr. Blissett was involved in the NOR-1 transaction, *inter alia* in the verification of the provenance of the original 15M\$ premium paid by Norshield for said transaction, as appears from exhibit P-85, a copy of which is attached herewith as **Exhibit M-9**;
25. Mr. Blissett was also involved in the NOR-2 transaction, signing said transaction and its amendments from June 28, 2002 to July 31, 2003, as Director and as Managing Director of Dominion US, the whole as appears from exhibits P-39

¹ M-8: Deposition of Roger A. Blissett in file number 60-0949 of the Supreme Court of the State of New York (*Balanced Return Fund Ltd. and al. v. Royal Bank of Canada and al.*) held on November 28, 2012, at page p.15, line 15 to 19, and page 16, line 25 to p. 17, line 13.

² M-8, p.14, line 22 to p.15, line 9.

³ M-8, p.16, lines 2 to 8.

⁴ M-8, p.23, lines 5 to 19.

and P-40 to the principal proceedings, together attached herewith as **Exhibit M-10**;

26. Mr. Blissett was also involved in the combining of the economics of NOR-1 and NOR-2 in March 2004, and in the partial liquidation of the combined options in November of 2004, signing said documents as Managing Director and Managing Director & Senior Deputy General Counsel, the whole as appears from exhibits P-41 and P-51 to the principal proceedings, jointly attached herewith as **Exhibit M-11**;
27. During pre-trial examination, Plaintiff wishes to depose Mr. Blissett, *inter alia*, on the following subjects:
 - a) The policy environment that governed Dominion US, as agent for RBC, in structuring and marketing derivative products;
 - b) The persons or units or committees at Dominion US, between 1999 and 2005, responsible for:
 - New product or new business approval;
 - Exception requests for transactions that fell outside of policies;
 - Counterparty KYC;
 - Counterparty credit rating;
 - AML verifications.
 - c) The initial and ongoing KYC, credit rating and AML verifications that preceded the NOR-1 transaction and its amendments, the NOR-2 transaction and its amendments, the combining of the economics of both transactions, and the partial termination of the combined transactions;
28. Mr. Blissett has worked for RBC Financial Group in different capacities from 1996 to 2016;
29. As of April 2, 2018, he was appointed as Head of Government Affairs Office of MUFG, as appears from a press release of the same date, **Exhibit M-12**;
30. There is no reason to believe that Mr. Blissett would not collaborate in the sought deposition;
31. Plaintiff proposes to depose Mr. Blissett in person at a New York location to be identified by counsel for RBC;

Karen Haist

32. On July 30, 1999, Karen Heist signed the P-29 ISDA Master Agreement and Schedule, as *Senior Manager - Trading Documentation and Credit Support* for Royal Bank of Canada; a copy of exhibit P-29 is reproduced in support of the present motion as **Exhibit M-13**;
33. The M-20 Master Agreement contains the fundamental and overarching obligations of RBC and Norshield in relation to the NOR-1 transaction;
34. Whereas RBC relied on Dominion US as its agent for the purpose of marketing and closing the NOR-1 transaction, it directly entered into the M-13 Master Agreement;
35. The form of the Master Agreement was the one imposed by RBC to Dominion US by the P-90 Agency Agreement, namely the *1992 ISDA Multicurrency-Cross Border Master Agreement*, as appears from Section 1 of the P-90 Agency Agreement, and section A9.9 of the Authorities attached to P-90; a CONFIDENTIAL copy of exhibit P-90 is reproduced in support of this motion as **Exhibit M-14**;
36. The portion of the standardised Master Agreement that is tailored to the counterparty involved and the transaction contemplated is called the Schedule;
37. The Schedule to the M-13 Master Agreement, starting at page 19, provides, among other specific obligations, for initial and monthly financial reporting by Norshield, and for a specific termination clause for failing to comply with the reporting obligations; it also contains specific definitions that serve to clarify Norshield's ongoing monthly reporting obligations, as appears from pages 20, 21, 23 and 28;
38. On the same day that the M-13 Master Agreement and its Schedule were entered into by RBC and Norshield, the core of the specifically tailored Schedule was modified by Dominion US through the NOR-1 Confirmation Agreement, as appears from section 11 of said Confirmation; the NOR-1 Confirmation Agreement was already communicated as exhibit P-30; a more legible copy is produced herewith as **Exhibit M-15**;
39. Section 11 of M-15 is entitled Early Termination Provisions and contains a subsection entitled Amendment to Master Agreement, which provides that:

Notwithstanding the terms of Part 3(b) of the Schedule to the Master Agreement pertaining to the delivery of Financial information thereunder, Buyer need not deliver to Seller: (i) annual, audited Financial statements; or (ii) written reports of Buyer's Net Asset Value as of the last Business

Day of each calendar month. Buyer hereby agrees that in lieu of such terms, Buyer shall deliver annual unaudited Financial statements to Seller. Buyer shall deliver such Financial statements to Seller upon request therefor from Seller

40. The Authorities attached to the M-14 Agency Agreement provide that amendments to Master Agreements must be approved by the RBC in accordance with Bank's Circulars, as appears from page 23 of said Authorities, at section A.4.2.1 d);

41. On her current LinkedIn profile, **Exhibit M-16**, Mrs. Haist describes her responsibilities during her tenure at RBC between 1995 and 2006 in the following manner:

"Planned and implemented global strategies across Capital Markets' platforms; managed and directed the firm's Know Your Client ("KYC"); analyzed the AML (Anti Money Laundering) legislation and participated in policy development; conducted annual audits and compliance reviews for International Operational divisions."

42. During pre-trial examination, Plaintiff wishes to depose Mrs. Haist, *inter alia*, on the following subjects:

- a) The analysis that lead to the drafting of the M-13 Schedule to the ISDA Master Agreement;
- b) The instructions received regarding the drafting of the Schedule;
- c) The amendment of the Schedule by the M-15 Confirmation Agreement;
- d) Whether she was briefed on said amendment;
- e) Whether the amendment was approved by RBC;
- f) The credit support she provided Defendants, if any, in relation to the NOR-1 and NOR-2 transactions;
- g) The KYC and AML support she provided Defendants, if any, in relation to Norshield and the NOR-1 and NOR-2 transactions;
- h) Whether she was implicated in annual audits and compliance reviews of Dominion US;

43. According to her M-16 LinkedIn profile Mrs. Haist currently works for two different corporations in Burlington, Ontario;

44. Plaintiff proposes to depose Mrs. Haist in person at a Toronto location to be identified by counsel for RBC;

Herve Leung

45. According to an email sent by Philip B. Wisener to Mr. Leung on September 7, 1999, both men participated in an NBC (New Business Committee) meeting on July 13, 1999, the whole as appears from a copy of an email string containing said email, **Exhibit M-17**;
46. The subject title of the M-17 email string is "*Approval for Norshield*";
47. In one of the M-17 emails, Mr. Wisener asks Mr. Leung to provide him with a written approval for the "*Norshield trade*";
48. Mr. Leung, does not reply by providing the requested written approval, but by asking a series of questions instead, the whole as appears from M-17;
49. In another email thread dated June 8, 2004, Mr. Leung expresses concerns to Mr. Wisener regarding "*Norshield*", the whole as appears from said email, **Exhibit M-18**;
50. These concerns included the "*outlier*" nature of the Norshield transaction, which entailed "*relatively too much risk*", where "*the benefit of managed accounts is diluted if it has illiquid components in the portfolio*", said portfolio being "*concentrated as well, thus showing up in practically all of our stress tests*", that the transaction "*is outside of leverage limit, and grew under the radar*", going as far as suggesting to "*divest of this account or to bring the leverage in line*", the whole as appears from M-18;
51. During pre-trial examination, Plaintiff wishes to depose Mr. Leung, *inter alia*, on the following subjects:
- a) The New Business Committee on which he sat in July 1999, its composition, its role and the policies and procedures that governed it;
 - b) The July 13, 1999 NBC meeting discussions regarding the "*Norshield trade*";
 - c) The questions submitted to Mr. Wisener in the M-17 email exchange;
 - d) His responsibilities in RBC and/or Dominion US in relation with Norshield as a Counterparty and/or the NOR-1 and NOR-2 transactions;

- e) The concerns he raised in his M-18 June 8, 2004 email to Mr. Ho and Mr. Wisener;
52. According to his LinkedIn profile, **Exhibit M-19**, Mr. Leung currently works for Bank of China (Canada), in Markham Ontario, as Chair of the Risk Committee of the Board;
53. Plaintiff proposes to depose Mr. Leung in person at a Toronto location to be identified by counsel for RBC;

David Downie

54. As mentioned above, counsel for RBC recently proposed Mr. David Downie as the sole representative of Defendants to be deposed on all the subjects identified by Plaintiffs's letter of August 17, 2018;
55. Mr. Downie was Managing Director, Credit Risk Management from October 2004 to May 2011, as appears from his LinkedIn profile, **Exhibit M-20**;
56. Plaintiff agrees to depose Mr. Downie, but in conjunction with the other witnesses identified in the present motion;
57. On September 23, 2004, a "*Norshield Exception Request*" was produced by Eric Aldous of RBC Capital Markets Corp., as appears from the exhibit P-91 email and attachment of the same date, a copy of which is reproduced herewith, **Exhibit M-21**;
58. On or about September 24, 2003, said exception request was submitted to RBC Group Risk Management, the whole as appears from an email dated January 12, 2005, already communicated as exhibit P-122, a copy of which is reproduced herewith as **Exhibit M-22**;
59. As appears from the M-22 email, Mr. Downie himself signed the approval of the Norshield Exception Request, as Vice-President, Group Risk Management – Credit;
60. During pre-trial examination, Plaintiff wishes to depose Mr. Downie, *inter alia*, on the following subjects:
- a) The approval of the September 2004 Norshield Exception Request;
 - b) The composition of Group Risk Management–Credit Committee in September 2004 and January 2005;
 - c) The policies and procedures that governed the Norshield transactions;

- d) The policies and procedures that governed the Norshield Exemption Request;
 - e) The risk analysis performed on the Norshield transaction in the fall and winter of 2004, and the credit exposure then adjudicated to the Norshield transaction;
61. Plaintiff proposes to depose Mr. Leung in person at a Toronto location to be identified by counsel for RBC;

Suzanne B. Labarge

62. In November 8, 1995, Mrs. Labarge was Executive Vice-President, Corporate Treasury, at RBC, as appears, *inter alia*, from page 15 of the M-14 Agency Agreement (P-90);
63. For the purposes of the M-14 Agency Agreement, Mrs. Labarge was one of RBC's designated recipients of notices from Dominion US., as appears from section 25 of the agreement;
64. In 1998, Mrs. Labarge joined the Board of Directors of RBC as Executive Vice-President & Chief Risk Officer, as appears from an extract of RBC's 1998 Annual Report, **Exhibit M-23**;
65. Mrs. Labarge's title changed to Vice Chairman & Chief Risk Officer in 1999, which remained her title until she left RBC in or about September 2004;
66. As Chief Risk Officer for RBC as a group, Mrs. Labarge had or should have had a significant level of awareness of the risks generated by the particular line of business in which Dominion US was engaging;
67. RBC's 1999 Annual Report, already communicated as exhibit P-63, at pages 38 and 39, contains these passages relative to the Group Risk Management function headed by Mrs. Labarge (we emphasize):

"The Vice-Chairman and Chief Risk Officer, who reports directly to the Chairman and Chief Executive Officer, heads up a global function that has been structured to reflect the evolving needs and strategic initiatives of the organization."

(...)

"The bank's Risk Framework (...) is the primary vehicle for identifying and assessing risk across the group. Risks are divided into two broad classes:

(1) those that can be influenced but not directly controlled, and (2) those that can be directly managed through the formulation of strategies, policies and processes. Group Risk Management professionals work in partnership with the business and functional units to identify risk, which is then measured, monitored and managed. In line with a group-wide portfolio management approach, portfolio analytical techniques are employed in an effort to optimize the risk/reward profile and ensure efficient allocation of capital within the group.”

(...)

“Portfolio composition by product continues to shift away from traditional lending, particularly outside Canada. Emphasis is placed on trading products such as foreign exchange, swaps, options, equity derivatives and fixed income products. Transactions are handled by specialized teams in New York, London, Singapore and Sydney. Resident middle offices are designed to ensure that risk guidelines are strictly adhered to. New products or structures must be approved by Group Risk Management in Toronto following thorough risk analysis and rigorous stress testing. Exposure control of trading products has two levels. First, individual credit lines must be approved for every counterparty. Second, overall usage of approved lines is capped by product group, counterparty location or industry. Such limits are particularly important in the financial industry, as banks account for 30% and non-bank financial institutions for a further 15% of all the bank credit authorizations.”

The whole as appears from an extract of RBC’s 1999 Annual Report, herewith reproduced as **Exhibit M-24**;

68. At page 69 of the M-24 1999 Annual Report, in the Derivative financial instruments note to the financial statements, the Report states:

“The bank does not deal, to any significant extent, in leveraged derivative transactions. These transactions contain a multiplier which, for any given change in market prices, could cause the change in the transaction’s fair value to be significantly different from the change in fair value that would occur for a similar derivative without the multiplier.”

69. Nonetheless, RBC entered, in July of 1999, into a leveraged derivative transaction (NOR-1), which transaction was also unusually highly leveraged;
70. Plaintiff respectfully submits that, in the context a groupwide policy to “*not deal, to any significant extent, in leveraged derivative transactions*”, the NOR-1 transaction must have or should have drawn the attention of Group Risk Management then headed by Mrs. Labarge;
71. Plaintiff also respectfully submits that, from that awareness, the risk taken by that transaction must have or should have been identified by Group Risk

Management as one of “those that can be directly managed through the formulation of strategies, policies and processes”.

72. At the date of the closing of the NOR-1 transaction, relevant policies and procedures that had been more or less updated recently were available, *inter alia* the following:

- 1996-09-01 CRCP-1 Credit Principles;
- 1999-03-01 CRCP-2 Credit Rules and Guidelines;
- 1998-04-01 CRPG-1 Product Guidelines – General; and
- 1998-11-01 CRPG-6 Product Guidelines – Derivatives

The whole as appears from said groupwide policies, **Exhibit M-25, Exhibit M-26, Exhibit M-27 and Exhibit M-28;**

73. These policies evolved slightly during the life of the NOR-1 and NOR-2 transactions, but the fundamental aspects remained unchanged;

74. Plaintiff respectfully submits that the NOR-1 transaction and the Norshield relationship stood far outside the boundaries set by the RBC policies referenced in the above paragraphs; the same goes for the NOR-2 transaction;

75. Plaintiff further respectfully submits that the NOR-1 and NOR-2 transactions could not have been entered into by RBC if it had complied with the policies and procedures then in force and sound banking practices;

76. During pre-trial examination, Plaintiff wishes to depose Mrs. Labarge, *inter alia*, on the following subjects:

- a) The identification of the risk management structure and chain of command that existed under her leadership for the purpose of supervising and managing the various risks generated by derivative business in general, and the NOR-1 Transaction and Norshield relationship in particular;
- b) The identification of the set of policies and procedures that applied or should have applied to the NOR-1 transaction and the Norshield relationship;
- c) Whether Group Risk Management was made aware of the Norshield relationship in general, and the NOR-1 and NOR-2 transactions in particular;
- d) Whether the NOR-1 transaction and the Norshield relationship were, in fact, properly entered into and managed as per applicable policies and procedures;

- e) The set of controls that were put in place, if any, to monitor the Norshield relationship in general, and the NOR-1 and NOR-2 transactions in particular;
 - f) RBC's awareness and understanding of the various risks and warning signs that Norshield and the NOR-1 and NOR-2 transactions generated between 1999 and 2005;
77. Mrs. Labarge appears to be currently acting as Chancellor of McMaster University in Hamilton, Ontario, as appears from **Exhibit M-29**;
78. Plaintiff proposes to depose Mrs. Labarge in person at a Toronto location to be identified by counsel for RBC;

Peter W. Currie

79. Mr. Currie, joined RBC's board of directors as Executive Vice-President & Chief Financial Officer in April of 1997; his title changed to Vice Chairman & Chief Financial Officer in 1999, which remained until he left RBC in September 2004;
80. During pre-trial examination, Plaintiff wishes to depose Mr. Currie, *inter alia*, on the following subjects:
- a) The structure and chain of command that existed under his leadership for the purpose of effecting the financial reporting of RBC's derivative business in general, and the NOR-1 and NOR-2 transactions in particular;
 - b) The understanding and perception of the NOR-1 and NOR-2 transactions at the Head Office and Board level, and within the Finance & Audit Function;
 - c) The approval process of the financial aspects and leverage levels of the NOR-1 business if any, or of an anterior similar business, as the case may be;
 - d) The set of accounting standards that were chosen (i.e.: IFRS, US GAAP, Canadian GAAP) to account for the NOR-1 and NOR-2 transactions;
 - e) The classification of the NOR-1 and NOR-2 transactions within the chosen accounting standards;
 - f) The accounting, within RBC, of revenues generated by the NOR-1 and NOR-2 transactions, and the timing of said accounting (i.e.: at closing, on ongoing basis, at winding down?);
 - g) The qualification of the NOR-1 and NOR-2 transactions (i.e.: time decay, interest);

- h) The accounting of the NOR-1 and NOR-2 transactions cash inflows (i.e.: premiums) and outflows (i.e.: basket investments and payments to Norshield);
 - i) The qualification of the underlying basket of hedge funds and managed accounts (i.e.: RBC asset vs collateral);
 - j) The accounting, if any, of the NOR-1 and NOR-2 underlying basket of hedge funds and managed accounts, including its market value, its capital gains and loss and its other types of profits and losses;
81. These determinations will serve, *inter alia*, to identify the exact sub-set of policies and procedures that applied or should have applied to the NOR-1 and NOR-2 transactions;
82. Mr. Currie is currently sitting on the board of directors of the Kemptville District Hospital in Kemptville, Ontario, as appears from **Exhibit M-30**;
83. Plaintiff proposes to depose Mr. Currie in person at a Toronto location to be identified by counsel for RBC;

FOR THESE REASONS, MAY IT PLEASE THE COURT:

SUMMON Roger Blissett to pre-trial examination to be conducted by Plaintiff at Defendants counsel's offices in New York located at 620 8th Ave, New York, NY 10018, USA, or at any appropriate correspondent's office Defendants might appoint for this purpose, at a date and time to be determined, to be deposed in person or by technological means;

SUMMON Karen Haist to pre-trial examination to be conducted by Plaintiff at Defendants counsel's offices in Toronto located at 100 King St West, Toronto, Ontario M5X 1B8, or at any appropriate correspondent's office Defendants might appoint for this purpose, at a date and time to be determined, to be deposed in person or by technological means;

SUMMON Herve C. Leung to pre-trial examination to be conducted by Plaintiff at Defendants counsel's offices in Toronto located at 100 King St West, Toronto, Ontario M5X 1B8, or at any appropriate correspondent's office Defendants might appoint for this purpose, at a date and time to be determined, to be deposed in person or by technological means;

SUMMON David Downie to pre-trial examination to be conducted by Plaintiff at Defendants counsel's offices in Toronto located at 100 King St West, Toronto, Ontario M5X 1B8, or at any appropriate correspondent's office Defendants

might appoint for this purpose, at a date and time to be determined, to be deposed in person or by technological means;

SUMMON Suzanne B. Labarge to pre-trial examination to be conducted by Plaintiff at Defendants counsel's offices in Toronto located at 100 King St West, Toronto, Ontario M5X 1B8, or at any appropriate correspondent's office Defendants might appoint for this purpose, at a date and time to be determined, to be deposed in person or by technological means;

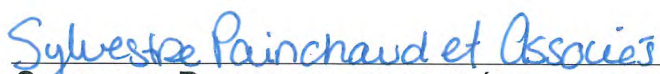
SUMMON Peter W. Currie to pre-trial examination to be conducted by Plaintiff at Defendants counsel's offices in Toronto located at 100 King St West, Toronto, Ontario M5X 1B8, or at any appropriate correspondent's office Defendants might appoint for this purpose, at a date and time to be determined, to be deposed in person or by technological means;

DECLARE that, pursuant to the cardinal principle⁵ and the guiding principles of civil procedure, in particular the obligation to co-operate, Defendants shall facilitate the voluntary participation of the witnesses in the above-mentioned pre-trial examinations and report to Plaintiff's counsel on the measures taken in that regard and their result, within 21 days of the judgment to be rendered on the present motion;

DECLARE that, pursuant to the cardinal principle and the guiding principles of civil procedure, in particular the obligation to co-operate, Defendants shall fulfill the undertakings made during the depositions of the witnesses in the above-mentioned pre-trial examinations;

THE WHOLE, with legal costs.

MONTREAL, March 28, 2019



SYLVESTRE PAINCHAUD ET ASSOCIÉS S.E.N.C.R.L.

Me Normand Painchaud

n.painchaud@spavocats.ca

Me Vincent Blais-Fortin

v.blais-fortin@spavocats.ca

(Code d'impliqué : BS0962)

740, avenue Atwater, Montréal (Québec) H4C 2G9

Tel: 514 937-2881 Fax: 514 937-6529

Lawyer for Plaintiff

Our file: 17310NP13

⁵ « (...) la recherche de la vérité demeure le principe cardinal de la conduite de l'instance civile »
Pétrolière Impériale, 2014 CSC 66, [2014] 3 RCS 287, para. 24.

SUPERIOR COURT

(Class Action)

**PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL**

NO: 500-06-000435-087

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Plaintiff

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ORIGINAL

ND: 17310/13

BS0962

Me Normand Painchaud

n.painchaud@spavocats.ca

Me Vincent Blais-Fortin

v.blais-fortin@spavocats.ca

SYLVESTRE, PAINCHAUD et associés

S.E.N.C.R.L.

740, avenue Atwater

Montréal (Québec) H4C 2G9

Tél. : (514) 937-2881

Fax : (514) 937-6529

www.spavocats.ca